

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1841 - HB 1896

March 28, 2022

SUMMARY OF BILL: Eliminates custodial parole. Removes the authority for the Board of Parole (BOP) to determine when an inmate will begin service of the inmate's consecutive sentence, including allowing the inmate to begin custodial parole on any date on or after the custodial parole eligibility date.

FISCAL IMPACT:

Increase State Expenditures – \$6,935,800 Incarceration

Assumptions:

- Pursuant to Tenn. Code Ann. 40-35-501(r), the Department of Correction (DOC) is responsible for calculating the sentence expiration date and the release eligibility date of any felony offender sentenced to the DOC and any felony offender sentenced to confinement in a local jail or workhouse for one or more years.
- Pursuant to Tenn. Code Ann. § 40-35-501(m), the release eligibility date is separately calculated for each offense for which a defendant is convicted. For consecutive sentences, the periods of ineligibility for release are calculated for each sentence and are added together to determine the release eligibility date for the consecutive sentences.
- Pursuant to Tenn. Code Ann. 40-20-110,
 - If a person is sentenced for two or more separate offenses, sentence shall be pronounced for each offense, and imprisonment may equal, but shall not exceed, the total of the maximum terms provided by law for the offenses, which total shall, for the purpose be construed as one continuous term of imprisonment.
 - The DOC is required to notify the BOP when inmates sentenced to consecutive sentences which require custodial parole consideration reach parole eligibility on their initial sentences.
 - The BOP is required to determine when the inmate will begin service of the inmate's consecutive sentence; and
 - The BOP has the authority to begin custodial parole effective on any date on or after the custodial parole eligibility date.
- Passage of the proposed legislation will eliminate custodial parole and require an inmate serve 100 percent of an initial sentence before the inmate begins service for any consecutive sentence.
- Based on information provided by Department of Correction (DOC), the chart below details the estimated number of inmates by felony class and the average estimated

additional days incarcerated each will serve before beginning service for a consecutive sentence:

| Felony Class | A | B | C | D | E |
|--------------------------|----------|----------|----------|----------|----------|
| Number of Inmates | 1 | 49 | 92 | 34 | 34 |
| Additional Days | 1,588 | 1,172 | 566 | 303 | 204 |

- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

| Increase State Expenditures | |
|------------------------------------|--------------------|
| Amount | Fiscal Year |
| \$ 3,494,300 | FY22-23 |
| \$ 5,396,700 | FY23-24 |
| \$ 6,352,600 | FY24-25 |
| \$ 6,614,100 | FY25-26 |
| \$ 6,669,600 | FY26-27 |
| \$ 6,734,500 | FY27-28 |
| \$ 6,763,900 | FY28-29 |
| \$ 6,818,700 | FY29-30 |
| \$ 6,869,100 | FY30-31 |
| \$ 6,935,800 | FY31-32 |

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$6,935,800.
- Passage of the proposed legislation will eliminate custodial parole and require an inmate to serve an initial or lead sentence in full, undiminished by parole eligibility, before beginning service on a consecutive sentence.
- Of the approximately 16,000 parole hearings conducted by the BOP annually, an estimated 200 are custodial parole hearings for inmates with consecutive sentences in which parole from one sentence to another is considered.
- The proposed legislation will have no significant impact on the workload of the BOP; therefore, any fiscal impact is estimated to be not significant.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

/vh